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7 *"In vox Legis et Moralis..."*

8 **IN THE DISTRICT COURT OF THE**
9 **UNITED STATES OF AMERICA**

10 Robert Michael Vanleeuwen,
11 PETITIONER

No. 5:25-cv-02392

12 Kelly Santoro, Warden,
13 RESPONDENT

14 **# JUDICIAL NOTICE(S) REQUESTED ()**

15 **PETITIONERS REPLY TRAVERSING RESPONDENTS ANSWER**

16 **Summary**

17
18 Respondents Answer (ANS) (Doc.17) and Memorandum (ANSM) (Doc. 17-1) were
19 filed 13 MARCH 2026. This reply in traverse of that duo is filed in tandem with
20 Notice of Safe Harbor (NSH) for Motion on Sanctions and Request for Leave of
21 Secondary Appointment in the justified hearings.

22 **VERIFIED REPLY IN TRAVERSE**

23 1. Petitioner / Father of Marjorie Linette Ramirez, by and through his legal name
24 Robert Michael Vanleeuwen ('van Leeuwen'); here submits reply in traverse of
25 Respondents Answer (Doc. 17) and Memorandum (Doc. 17-1) to the First Amended
26 Petition (FAP) (Doc. 11, 11-1, 11-2 [86pgs]), generally and specifically DENYING
the allegations made by Respondent therein, as set out in this submission and unless
otherwise expressly admitted.

27 2. Petitioner PLEADS the FAP, his exhibits lodged under cover, and the Record of
28 Appeal (RoA) in the action on review in this proceeding; each and every allegation

pled and or construed consistent with the doctrine of substantial justice to the parties; incorporating such by reference and making them a part of this submission.

3. Petitioner AFFIRMS the FAP raised 21 Grounds / Claims of Merit in 86 Pages (FAP 1-86). 13 index claims, 8 divided under Ground 7 (G7) (FAP 57-69); locations of those claims and their "responses" are listed below for the courts benefit (PG:LINE):

G1 (FAP 13–26) ; (ANS 2:5 / ANSM 7–8)

G2 (FAP 27–30) ; (ANS 2:5 / ANSM 9:20–11:5)

G3 (FAP 31–37) ; (ANS 2:5 / ANSM 11:6–12:14)

G4 (FAP 38–42) ; (ANS 2:5 / ANSM 12:15–14:7)

G5 (FAP 43–48) ; (ANS 2:5 / ANSM 14:8–16:24)

G6 (FAP 49–56) ; (ANS 2:5 / ANSM 16:25–18:2)

G7 (FAP 57–69) ; (ANS 2:5 / ANSM 18 [*] , 19:1–22:4)

G7-1 (FAP 58:19–60:20) ; (ANS 2:5 / ANSM 19:4–L16)

G7-2 (FAP 60:21–63:28) ; (ANS 2:5 / ANSM 19:17–L27)

G7-3 (FAP 64:1–L15) ; (ANS 2:5 / ANSM 20:1–L12)

G7-4 (FAP 64:17–65:11) ; (ANS 2:5 / ANSM 20:13–L22)

G7-5 (FAP 65:13–67:28) ; (ANS 2:5 / ANSM 20:23–21:2)

G7-6 (FAP 68) ; (ANS 2:5 / ANSM 21:3–L15)

G7-7 (FAP 69:01–L13) ; (ANS 2:5 / ANSM 21:15–L23)

G7-8 (FAP 69:15–L28) ; (ANS 2:5 / ANSM 21:24–22:4)

G8 (FAP 70–71) ; (ANS 2:5 / ANSM 22:5–18)

G9 (FAP 72–73) ; (ANS 2:5 / ANSM 22:19–23:11)

G10 (FAP 74–83) ; (ANS 2:10 / ANSM 23:12–20)

G11 (FAP 84) ; (ANS 2:10 / ANSM 24:21–25:12)

G12 (FAP 85) ; (ANS 2:10 / ANSM 25:13–26:6)

G13 (FAP 86) ; (ANS 2:13–L15 / ANSM 26:7–28:2)

4. Petitioner DENIES generally and specifically charge allegations made in Section 1 (ANS 2:1-3) and throughout (e.g. ASNM 1:4 , 4:4-5 , 12:1-2) in that Petitioner is NOT serving a sentence of any type which contains a charge of "Forgery" (Cal Pen §§ 470-476), nor does the record of the conviction on review substantiate the elements necessary for such a conviction (CALCRIM 1900 [forgery, elements]).

5. Petitioner DENIES generally and specifically allegations made in Section 2 (ANS 2:5-8) in that Grounds 1-9 (FAP 13-73) are NOT subject to any litigation-bar (28 USC § 2254(d)) and the claims are within the appropriate standing and jurisdiction of

1 this court under statute (28 USC § 2254). Petitioner further ASSERTS a miscarriage
2 manifestly necessitating review.

3 6. Petitioner DENIES generally and specifically allegations made in Section 3 (ANS
4 2:10) in that Grounds 10-12 (FAP 74-85) do in fact state a clear basis for federal
5 relief. Specifically, Ground 10 (FAP 74-83) posits a violation of Substantive /
6 Procedural Due Process (e.g. U.S. Const., Amend. 5, 6, 14 [Process & Procedure];
7 See Griffin v Illinois, 351 US 12, 16-18 [76 S. Ct. 585] (1956) [Full & Fair]); Ground
8 11 (FAP 84) raises a clear issue of Double Jeopardy (U.S. v Ursery, 518 US 267, 275
9 [116 S. Ct. 2135] (1996) [same offense fined in separate case is jeopardy if criminally
10 imposed]); and Ground 12 (FAP 85) references a federal construct (Bousley v U.S.,
523 US 614, 615 [118 S. Ct. 1604] (1998) [entitled to raise "actual innocence"];
Prescott v Kelly Santoro, 53 F4th 470, 482-83 (2022) [example, this district /
respondent]).

11 7. Petitioner DENIES generally and specifically allegations made in Section 4 (ANS
12 2:12-13) in that Ground 13 (FAP 86), a request for consideration of cumulative error -
13 WAS presented for the court in proceedings originating from the severed motion
14 (DCA E084312) and exhausted (Smith v Digmon, 434 US 332, 333 [98 S. Ct. 597]
(1978) [exhaustion shown by briefs / pleadings]).

15 8. Petitioner DENIES generally and specifically allegations made in Section 6 (ANS
16 2:17-19) in that Petitioner IS ENTITLED to an evidentiary hearing and relief under
17 statute, on all 21 claims raised within the FAP, and in those claims construed
18 consistent with the doctrine of substantial justice to the parties (See Erickson v
19 Pardus, 551 US 89, 94 [127 S. Ct. 2197] (2007) [liberal construction, reasonable
inference, pro-se petitions]).

20 9. Petitioner ACCEPTS RESPONDENT'S ADMISSION as it pertains to the physical
21 alibi set forth under Ground 3 (FAP 31-37 [G3]; ANS 2:5; ANSM 11:6-12:14
22 [acknowledgement]) and ASSERTS the claim prevails for relief due to the
23 uncontroverted "ultimate fact" represented by the Alibi, to which no reasonable trier
24 could disavow (Jackson v Virginia, 443 US 307, 317-19 [99 S. Ct. 2781] (1979);
Renico v Lett, 559 US 766, 768 [130 S. Ct. 1855] (2010) [no other "reasonable
interpretations" existing]).

25 10. Petitioner ACCEPTS RESPONDENT'S ADMISSION as it pertains to the
26 sufficiency of pleading set forth in Ground 7-2 (FAP 60:21-63:28) in that the charge
27 sheet on conviction listed charges of "Perjury" (Cal Pen § 118) and specifically in
28 counts 4, 6, 8, 10, 12, 14, and 16 (CTS 1294-1300 [charges]) - made no averment as
to what "falsity" was at issue (ANSM 19:17-27 [admission]). Respondent having
made no valid or relevant rebuttal in claim (See Cal Evid. § 1221 [adoptive

admission]; 29A Am. Jur. 2d Evidence § 804 [same, documents]] - Petitioner also ACCEPTS RESPONDENT'S ADOPTIVE ADMISSION (ANSM 19:17-27) that said charge sheet was defective and failed to present a valid charge of "perjury" as to those counts (Cal Pen § 966 [perjury, "essential allegations"]; 60A Am. Jur. 2d Perjury § 50 ["Under federal law and state law, an indictment or information for perjury must set forth the alleged false testimony"]).

11. Petitioner ACCEPTS RESPONDENT'S ADMISSION as it pertains to the incomplete record on appeal as set forth in Ground 9 (FAP-72; ANSM 22:19-22:11 [admission, citing prior by office - record not lodged, see docket "DISCOVERY 2"]). Petitioner ASSERTS the state reviewing court acted without a complete record on appeal, which "include[d], apparently, [choice versions of] the complain[t] and [its] amendments which would normally be required" (DCAE084312 Reply / Amend. to IR 21:14-16; Cal R. Ct., Rule 8.320, Subds.(b)(1) & (d)(1) [required record items]).

12. Petitioner DENIES generally and specifically the "statement of facts" proffered and the presentation of "1101" / "UNCHARGED CONDUCT" TESTIMONY (Cal Evid. § 1101(b)) now exhibited by Respondent in answer as evidence of charged conduct (ANSM 2:7-4:1 / 4:6-8 / 4:19-28 / 7:23-26 / 10:7-10 [quoted] / 10:20-24 [quoted] / 11:3-5 [at clause] / 16:21-23 / 20:23-28 / 23:23-26 / 24:1-4 ** (Take a Highlighter to that!); FAP 38 [listing these as "1101" entries]). Petitioner ASSERTS AND RE-ALLEGES the allowance hijacked trial (FAP 38-42 [Ground 4]; See FAP 49 [hijacking the hijack xD]), seeded substantial variance (FAP 43-48), necessitated a relentless need to pivot at the unknown, and spawned various other defenses / concerns (e.g. FAP 64:17-28 [on law]; FAP 65:14-67:28 [tainted testimony]; FAP 68 [relative opinion]). "Section 1101(b) prohibits the use of [alleged and conclusory statements of] character to prove [charged] conduct" (Cal Evid. § 1101 at Comm. Notes [allows that "relevant to prove [supplemental] disputed fact"]; BUT SEE e.g. FAP 62:15-18 [instructed to convict on opinion of "1101" testimony]; FAP 39:10-12 [shows conviction topic / entry as "1101"]; Hernandez v Martel, 824 F. Supp. 2d 1025, 1103-05 (2011) ["1101" taint passing AEDPA, granting relief]).

13. Petitioner, notwithstanding point 12, ASSERTS AND RE-ALLEGES Double Jeopardy (U.S. Const., Amend. 5) resulting from "uncharged conduct" testimony (Cal Evid. § 1101; FAP 38-42 [G4]) in that the exhibition of such testimony as premise for guilt, and where such forms a charge of another conviction or acquittal (ANSM 4:6-8 [noted case disposed by plea among promise including family court mediation]) - whether by instructive provision to a jury (FAP 68 [instructed "1101" entry]; Weeks v Angelond, 528 US 225, 234 [120 S. Ct. 727] (2000) ["jury is presumed to follow its instructions"]) or as foundation for variance (FAP 43-48 [G5]), violate jeopardy distinctly from the issue of overbearing prejudice and taint (Blueford v Arkansas, 566 US 699, 605 [132 S. Ct. 2044] (2012) [jeopardy of conviction / acquittal]; Fed. R.

1 Evid., Rule 404 ["1101"]; *Almenderaz-Torres v U.S.*, 523 US 224, 235 [118 S.Ct.
2 1219] (1998) [on prejudice / taint]; BUT SEE e.g. *Witte v U.S.*, 515 US 389 [115 S.
3 Ct. 2199] (1995) [no jeopardy in sentence enhancements]). Petitioner ASSERTS
4 jeopardy applies (28 USC § 2254(d)(1)), marking a "substantial and injurious effect
5 or influence" visible at the gate (*Brecht v Abrahamson*, 507 US 619, 637 & n.9 [113
6 S. Ct. 1710] (1993)).

7 14. Petitioner, notwithstanding points 12 and 13, DENIES challenging the admission
8 of "relevant" evidence (ANSM 13:19) in "uncharged conduct" testimony (Cal Evid. §
9 1101; FAP 38-42 [G4]). The hearsay carried no relation to charged acts (Cal Pen §§
10 118 [Perjury], 115 [False Instrument], 646.9 [Stalking on "filing suit"]; 664/278
11 [Parental Abduction on "false serve" to "get order"]; See FAP 43-44 [gravaman]). To
12 be clear, if Petitioner did NOT file a false "Proof of Service", there is NO CRIME
13 CAPABLE OF ARREST OR CHARGE (FAP 31-38 [G3 Alibi]). How "[lawful]
14 communication via social media with [his] children" or "be[ing] in [his then fiancée's]
15 presence" (CTS 721 [instruction]), has anything to do with "Proofs of Service"...
16 nobody knows (CTS 186-193 [trial notice]) - "proof of like acts producing the same
17 result as tending to show guilty knowledge[,] intent or purpose" is NOT what's being
18 used here (*People v Morani*, 196 CAL 154, 160 [236 P. 135] (1925); *People v*
19 *Johnson*, 221 Cal App 4th 623, 634-36 [164 Cal RPTR 3d 505] (2013) [tests / scope
20 of identity, intent, knowledge]; BUT SEE CTS 721-22 [instructed on all & on
21 charged acts (after variance made it charged acts)]; See FAP 45-48 [variance]).
22 Evidentiary rulings meet AEDPA's muster when they show an "objectively
unreasonable" constitutional violation (*Schriro v Landrigan*, 550 US 465, 473 [127 S.
Ct. 1933] (2007)). Arrested for—. Well, God knows (ANSM 10:11-13 ["contrive a
way of avoiding [the] restraining order..."]). Ergo, Petitioner did NOT violate. Yet a
jury was instructed to find each element of a violation by hearsay, to call a LEGAL
ACT a "violation" per-se (CTS 721 ["1101"]; See e.g. CTS 732-33 [Perjury Instructs
"1101" entry]). Doing so unfairly shifted burdens at trial (In *RE Winship*, 397 US
358, 364 [90 S. Ct. 1068] (1970) [burden]; *Mullaney v Wilbur*, 421 US 684 [95 S. Ct.
1302] (1975) [shifted burden]). A "substantial and injurious effect" (*Brecht v*
Abrahamson, 507 US 619, 623 [113 S. Ct. 1710] (1993)).

23 15. Petitioner, notwithstanding points 12, 13, and 14, ASSERTS INTRINSIC ERROR
24 in the state court's exhibition of "uncharged conduct" testimony (Cal Evid. § 1101;
25 FAP 38-42 [G4]) and as conduct of guilt, all the while snubbing any detail supporting
26 petitioner (e.g. FAP 66-67 [mother violates orders / punishes kids for speaking to
27 dad / disparaging remarks]) and omitting an uncontroverted physical alibi to the most
28 prejudicial fabrications (FAP 75-76 [alibi on vandalism / taped phone / claimed
violations]). Respondent stuffed a rabbit in a hat, turned around, and pulled the best
hat trick of 'em all: "It was the jury... that made these determinations" *pulls out
rabbit* (ANSM 24:12-20). The Supreme Court has not hesitated to find AEDPA

1 satisfied when a state process disregards information highly relevant to factual
2 findings (*Brumfield v Cain*, 576 US 305, 314-16 [135 S. Ct. 2269] (2015); *Wiggins v*
3 *Smith*, 539 US 510 [123 S. Ct. 2527] (2003); *Miller-El v Dretke*, 545 US 231 [125 S.
4 Ct. 2317] (2005); See 2 Fed. Habeas Corpus Pract. & Proc. § 32.4, p.2002 & n.12
5 (7th Ed. 2023) [cases that "overlooked or misconstrued evidence"]). —Yea, yea... one
6 need not always "addres[s] all the evidence" (*Miller-El v Cockrell*, 537 US 322, 347
7 [123 S. Ct. 1029] (2003)); but disregarding highly salient facts casts some serious
8 doubt on the veracity and character of process (iBid). It is not a jury who
9 conveniently left out Petitioner was living and working in another state for these
10 hearsay accusations (FAP 75-76 [Alibi on "1101"]); who omitted the arresting officer
11 is listed / personally involved in - whatever manner - the family case (FAP 49
[named]), even conveying a fraudulent warrant (id; RTS 1437:13-23 [admission];
RTS 777:20-23 [witness]). Finally, it is NOT the jury who refuses to cite
impeachments, quoting admitted falsities just to make Petitioner look "bad" (e.g. RTS
937-981 [impeaching "Santana"]). For Respondent to do so is shameful; for a court? a
god-damned disgrace.

12 16. Petitioner, notwithstanding point 15, ASSERTS JUDICIAL IMPROPRIETY ON
13 APPEAL in that judges must perform impartially, competently, and diligently (*Nuno*
14 *v Cal State*, 47 Cal App 5th 799, 810 [261 Cal RPTR 3d 210] (2020)). "impartiality
15 [is] absence of bias or prejudice" and care "in considering the issues" (iBid; Cal Jud.
16 Ethics, canon 1, 2, 3). There may be a "presumption" to the performance in duty; but
17 when one can show possible impropriety - the seriousness of such a claim should be
18 treated equally regardless of origin (Cal Jud. Ethics, cannon 2 ["appearance of
19 impropriety "]). The state must provide a review before an impartial tribunal (See
20 *Tumey v Ohio*, 273 US 510 [47 S. Ct. 437] (1927) [biased judge]), and the "right to
21 be heard" - which extends to a review's findings (*Taylor v Maddox*, 366 F. 3d 992,
22 1007 (9th 2004) ["must acknowledge significant portions of the record, particularly
23 where they are inconsistent with the judge's findings"]) - effects due process
24 (*Schroeder v New York*, 371 US 208, 212 [83 S. Ct. 279] (1962); *Sniadach v Fam.*
25 *Fin. Corp.*, 395 US 337 [89 S. Ct. 1820] (1969)). It is not significant whether one is
26 directed to petitioner's evidence, so long as it was in record. This is so even if buried
27 in voluminous transcripts and petitioners arguments gave no reason to search them
28 (*Miller-El v Dretke*, 545 US 231, 241 n.2, 282-83 [125 S. Ct. 2317] (2005) ["cherry
pick[ing]"]). Yet this case goes further. The level of error here demands the court do
more than simply forego deference under AEDPA (*Kipp v Davis*, 971 F. 3d 939,
994-95 (9th 2020) [misstated record & evidence, no deference])... it should declare no
appeal happened at all. If nothing else, Riverside's "home-grown" arrest, trial, and
review (all on the same city block) may be a seriously flawed concept. A decision
that's ultimately taken a father from the last half of his daughter's childhood should've
merited closer judicial attention from the state.

1 17. Petitioner DENIES generally and specifically the assertion of "constitutionally
2 sufficient notice" (ANSM 16:7-9) and to the substantial variance mid-trial in Ground
3 5 (FAP 43-48). FIRST - estoppel. Variance occurred AFTER prosecution rested on 7
4 DECEMBER (RTS 1155:10-12), Petitioner moved for acquittal (Cal Pen § 1118.1
5 [motion at "close [of] evidence"]; RTS 1163:9-1182:4 [motion heard]). Petitioner
6 began defense testimony on 8 DECEMBER (RTS 1243). Prosecution filed amended
7 information — wait for it... hold on—. Let me just stick my hand up this cows
8 bunghole... annnnnd wahhh! There she is - 10 DECEMBER (CTS 1294-1300 [the
9 variance]; CTS 651 [stamp]). Hows that for a hat trick? Respondent claims
10 "following his case in chief, the prosecutor moved to amend..." (ANSM 16:3); but
11 that isn't exactly what happened, now, was it? SECOND - Defective pleading is
12 defective notice (infra pt.10 [respondent admits defect]): no averments to the "falsity"
13 at issue (iBid). Notice must be sufficiently detailed to enable a defendant to address
14 the relevant issues in his defense (& preferably before he testifies & calls all his
15 witnesses) - the court MUST find error (Russell v U.S., 369 US 749, 766-68 [82 S.
16 Ct. 1038] (1962) [defective where "chief issue undefined" leaving "prosecution free
17 to roam" at every stage "a different theory, or... no theory at all"]; infra pt.14
18 [switcheroo]). The constitution enjoins "equal protection of the laws", and laws are
19 NOT abstract propositions (Tigner v Texas, 310 US 141, 147 [60 S. Ct. 879, 882]
20 (1940)). Were it not for that variance, Petitioner would have been acquitted without
21 even submission to a jury - EVERY SINGLE CHARGE CHANGED BASIS - (CTS
22 186-193 [notice at trial]; CTS 637 ["1118" memo]; See CTS 1169-1174 [pre-trial
23 dismissal]). A "substantial and injurious effect" (Brecht v Abrahamson, 507 US 619,
24 623 [113 S. Ct. 1710] (1993)).

18 18. Petitioner ASSERTS AND RE-ALLEGES Actual Innocence (FAP 85), as ceded
19 (ANSM 10:11 ["contrive a way of avoiding [the] restraining order"]). Ergo, Petitioner
20 did NOT violate. It doesn't matter the words used: "[F]or an agent [to] pursu[e] action
21 [over the exercise of] legal rights is 'patently unconstitutional'" (Bordenkircher v
22 Hayes, 434 US 357, 363 [98 S. Ct. 663] (1978)). Petitioner ASSERTS the "right not
23 to [have been] haled into court AT ALL upon [the] charge. The very initiation []
24 operat[ing] to deny [the] due process of law" (Blackledge v Perry, 417 US 21, 31 [94
25 S. Ct. 209] (1974)). The "right to petition" is of the "most precious" of liberties
26 (BE&K v NRLB, 536 US 516, 524 [122 S. Ct. 2390] (2002); Lozman v Riviera
27 Beach, 585 US 87 [138 S. Ct. 1945] (2018)). —Its immunity from retaliation turns
28 only on frivolity. To this end, prosecution has long ceded standing (RTS 192-194
[relation, fam-orders, entry]; FAP 78-82 [same]; See Cal Fam § 7601, et seq [*]).
Thus, seeking to avail oneself in court is protected, never hinging on "motivation"
(16A Am. Jur 2d Const. Law §§ 568, 571). Just as suspicion of wrongdoing in search
or seizure cannot rest on the exercise of a fundamental right; alleged propensity to do
wrong cannot invalidate that right (Slochower v Bd. Ed. N.Y., 350 US 551 [76 S. Ct.
637] (1956); Wash. v Glucksberg, 521 US 702, 720 [117 S. Ct. 2258] (1997))

1 [heightened protection]]. This case was over Petitioner "going to court" (RTS
2 344:12-13 ["[he's] still engaging in this activity"]; (You're damn right I am!)). Family,
3 children — associational rights "sheltered [from] unwarranted usurpation, disregard,
4 or disrespect" (M.L.B. v S.L.J., 519 US 102, 116 [117 S. Ct. 555]). Yet "faced with
5 exclusion from the only forum" empowered "to settle [family] disputes"; the
6 intentional obstruction of "that process raises grave problems for [substantive]
7 legitimacy" (Boddie v Conn., 401 US 371, 376 [91S.Ct. 780] (1971)).

8 19. Petitioner ASSERTS the state court acted contrary to established law when failing
9 to use proper standards for weighing speech (28 USC § 2254(d); FAP 15-25 [G1]).
10 The state lacks power to restrict expression (Ashcroft v ACLU, 535 US 564, 573 [122
11 S. Ct. 1700] (2002) [message, ideas, subject, content]). Since variance (infra pt.17),
12 charge on harassment for "Filing Suit" (See infra pt.18) now rests solely on
13 "Facebook Posts" (FAP 15-25 [the posts - peaceful, loving expressions]; ANSM
14 7-8:1, references * RTS 1282 [hearsay visit request]); but the law prohibits reprisal
15 for protected speech, especially peaceful speech indirect in forum (Counterman v
16 Colorado, 600 US 66, 75-77 [143 S. Ct. 2106] (2023)). A state cannot create new
17 classes of unprotected speech or weigh the value against its own ideas of social
18 interests (See U.S. v Stevens, 559 US 460, 469 [130 S. Ct. 1577] (2010)). No
19 evidence of the necessary elements exist (Jackson v Virginia, 443 US 307 [99 S. Ct.
20 2781] (1979)). To the extent instruction states 'social media communication and posts'
21 cannot be used to determine guilt (CTS 721-22 ["1101" ambiguity]) — What exactly
22 did Petitioner do? If it's not about "going to court" anymore, and "social media" is
23 mere propensity?

24 20. Petitioner ASSERTS AND RE-ALLEGES Ground 2 (FAP 27 [G2]). The charge
25 necessarily fails (See infra pt.9 [Alibi G3], pt.14 [descriptions]). To the extent the
26 state court found the order void, they ceded otherwise (ANSM 10:11-13). Petitioner
27 did NOT violate, and had a legal order - "[a] voidable order is valid until set aside"
28 (People v Am. Cont. Indem., 33 Cal 4th 653, 661 (2004)), and estoppel or forfeiture
may preclude a party setting said order aside (iBid; People v Mower, 28 Cal 4th 457,
474, fn.6 (2002)). In all, and considering the recitation of legal duty in Ground 2 - the
elements necessary to find guilt do not exist (Jackson v Virginia, 443 US 307 [99
S.Ct. 2781] (1979)).

21. Petitioner DENIES AMBIGUITY in jurisdiction and RE-ALLEGES DOUBLE
JEOPARDY in Ground 11 (FAP 84). Restitution may only encompass losses incurred
as a result of charged conduct (Hughey v U.S., 495 US 411, 416-420 [110 S. Ct.
1979] (1990)). Criminal fines and restitution are "punishment" (People v Hanson, 23
Cal 4th 355, 361-362 [97 Cal RPTR 2d 58] (2000); See People v Tarris, 180 Cal App
4th 612 [103 Cal RPTR d3 278] (2009) [two fines, one crime]). Here, petitioner was
assessed "moving expenses" as a result of a previous request and allotment - the

1 whiplash is extravagant (See 5:19-cv-0289 [protection / fab]). The fine must be
2 quashed. If not by Jeopardy, by fraudulent conveyance of the court. (U.S. v Ursery,
3 518 US 267, 270 [116 S. Ct. 2135] (1996) [jeopardy prohibits punishing defendant
4 for offense & forfeiting his property for that offense in a separate proceeding]).

5 22. Petitioner ASSERTS AND RE-ALLEGES instructional errors - (FAP 62),
6 displacing burden by invoking the "unqualified statement" clause (Cal Pen § 125;
7 People v Rutter, 143 Cal App 4th 1349, 1355-56 [49 Cal RPTR 3d 92] (2007)
8 [prejudice]), which applies in rare cases where one acts under or by some false
9 qualification. In all other respects, "Perjury" cannot be were it is on belief; the
10 instruction shifts the burden (CALCRIM 2640). Relief is necessary in "ambiguous
11 [instruction] and [where there's] a reasonable likelihood [the] jury applied [it] in a
12 way that relieved the state of its burden [to] prov[e] every element... beyond a
13 reasonable doubt" (Waddington v Sarasaud, 555 US 179, 190-91 [129 S. Ct. 823]
14 (2009); See RTS 977:9-11 [adverse witness - petitioner believed]). Instructions are
15 not considered in isolation (Estelle v McGuire, 502 US 62, 72 [112 S. Ct. 475]). This
16 means the "1101" ambiguity (infra pt.19), failure to give instruction (FAP 69:1-13),
17 and removal of choice words from element in another (CTS 728 ["in a public
18 agency"]; CALCRIM 1945) - all work to prevent a conviction on "every element"
(U.S. v Gaudin, 515 US 506, 510 [115 S. Ct. 2310] (1995)). Jury instructions mis-
describing or omitting elements violate the right to such burden (Neder v U.S., 527
US 1, 10 [119 S. Ct. 1827] (1999)). A "substantial and injurious effect" (Brecht v
Abrahamson, 507 US 619, 623 [113 S. Ct. 1710] (1993)). Not a single witness can
testify to what act violates restraint (See e.g. RTS 977:20-28 [cant say]; RTS
978:26-979:6 [no claimed violation]; RTS 981:6-10 ["belief" a crime, opinion of
pending lawsuits caused arrest]) - compounding the error (See infra pt.19).

19 23. Petitioner DENIES any test "established" AFTER ARREST constitutes evidence
20 (CTS 750 [marked complete 2/20/26]). Petitioner further ASSERTS HE IS THE
21 FATHER of his child(ren) (CTS 254-55 [test/photos/law]). Petitioner has NOT been
22 found unfit by any competent tribunal (32 Am. Jur. POF 3d § 83); properly denied
23 rights to custody, or divested recognition of parentage outside the conviction on
24 review and its obstruction of family-law. Petitioner RE-AFFIRMS a LAWFUL
25 CLAIM under Uniform Parentage (See Cal Fam § 7601, 7611-13 [defined & legal
26 presumptions]), holding presumption. Petitioner ASSERTS his right to petition for
27 redress of his grievances; the right to claim his child (any child for that matter) and
28 seek mediation in a court being protected by the 1st Amendment (U.S. Const.,
Amend. 1). It should be noted that the in request for sentencing maximums, state
officer sought sentence on the fact that Petitioner "would seek a DNA test from
family court if released" (CTS 1037 [after family appeal reinstated case]). It is
apparent who is really stealing what from whom.

1 24. Petitioner ASSERTS DISCRIMINATORY / VINDICTIVE / SELECTIVE
2 PROSECUTION AND DENIES any failure to "demonstrate" such (ANSM 17:22).
3 False reports (e.g. CTS 875-77, RTS 954:3-961:12 ["Santanas" personal
4 involvement]); attempts to thwart service (CTS 492); sentencing request on seeking
5 DNA (infra pt.23). This arrest and prosecution is "patently unconstitutional"
6 (Bordenkircher v Hayes, 434 US 357, 363 [98 S. Ct. 663] (1979)). A warrant sought
7 by fraudulent affidavit (FAP 49; CTS 875-77); arresting officer labeled by name in
8 family pleadings (id; CTS 750, Peoples Exh. 1). It is obvious the prosecutor was
9 involved in and being prevailed upon to bring charges by another with animus and in
10 personal interests (See U.S. v Koh, 199 F.3d 632 (2d 1999); See e.g. RTS 977:20-28
11 [cant say what act violated]; RTS 978:26-979:6 [no violations]; 981:6-10 ["belief" a
12 crime]). Sufficient evidence of animus may be by a deliberate and egregious error, or
13 combined with a pattern of misconduct. The issue may "warrant the grant of habeas
14 relief, even if it did not substantially influence a jury's verdict" (Greer v Miller, 483
15 US 756, 769 [107 S. Ct. 3102] (1987) [cf]; U.S. v Kent, 633 F. 3d 920 (9th 2011)
16 [proof by "reasonable likelihood of vindictiveness"]). This record even reflects
17 prosecutor's presence in civil cases; appearing in defense of private parties against
18 petitioner (e.g. CTS 1181 [prosecutor on civil record]). Reality was worse, which
19 Petitioner will seek to develop in discovery. The prosecutor was a "stalking horse"
20 (U.S. v Koh, 199 F.3 632 (2d 1999)). The "touchstone of due process analysis [in]
21 misconduct is the fairness [of] trial" (Smith v Phillips, 455 US 209, 219 [102 S. Ct.
22 940] (1982)). The presumption of lawfulness has long been overturned. Who the hell
23 arrests someone going to court and detains them without bail and forces them to
24 prove, in custody, in a different court, without aid, parentage "beyond a reasonable
25 doubt" in order to go unmolested to family-court?

26 25. Petitioner ASSERTS ERROR in determination of Ineffective Assistance of
27 Appellate Counsel (IAAC) (FAP 57-69 [G7]) where state court was presented with
28 and ignored claims meeting standards for review (DCA E084312 at Ptn & Reply to
IR; Cal R. Ct., Rule 8.385(d); People v Duvall, 9 Cal 4th 464, 474-75 [237 Cal RPTR
2d 259] (1995)). The courts acted contrary to established law (28 USC § 2254(d)(1);
Strickland v Wash., 466 US 668 [104 S. Ct. 2052] (1984) [effective assistance]). It
matters not petitioner followed a state rendition (In RE Spears, 157 Cal App 3d 1202,
1210 [204 Cal RPTR 333] (1984); In RE Hampton, 48 Cal App 5th 463 [261 Cal
RPTR 3d 907] (2020) [IAAC rubric]) - review must line "Strickland" (Williams v
Taylor, 529 US 362, 406 [120 S. Ct. 1495] (2000)). Respondent believes "prejudice"
applies only if "petitioner would have prevailed [on] appeal" (ANSM 18:20-22). The
standard is "reasonable probability" of a "different outcome" (Strickland v Wash., 466
US 668, 669 [104 S. Ct. 2052] (1984); U.S. v Bagley, 473 US 667, 68 2[105 S. Ct.
3375] (1985) ["undermin[ing] confidence [in] outcome"]). Among contention was (1)
a conflict of interest; (2) claims of merit; (3) an incomplete record (infra pt.10).
Uncontroverted claims of merit and a ceded incomplete record remain (e.g FAP 58:19

[no "115" instruments for jurisdiction]]. "IAAC rubric" determines merit by applying the claims as if they were applied using the standard of review in direct appeal (In RE Spears, 157 Cal App 3d 1203, 1210 [204 Cal RPTR 333] (1984)) - meaning petitioner was exclusively denied and deprived a different outcome (Brecht v Abrahamson, 507 US 619, 623 [113 S. Ct. 1710] (1993) ["substantial & injurious effect"]). Where Respondent claims Petitioner raised arguments in direct appeal - Petitioner did NO SUCH THING. Petitioner was forced counsel. Counsel did what counsel did... Petitioner does NOT condone it, was NOT represented or allowed true participation.

26. Petitioner RE-ALLEGES Ground 7-5 (FAP 65:13) in response (ANSM 20:23-21:2). The proper inquiry is whether " ' the false testimony ' " could have " ' affected the judgement ' " (Giglio v U.S., 405 US 150, 154 [92 S. Ct. 763] (1972); See Napue 360 US 264, 269 [79 S. Ct. 1173] (1959) ["use[s] false evidence... to obtain a tainted conviction"]). Such has weight elsewhere in this case.

27. Petitioner RE-ALLEGES Ground 7-1 (FAP 58:19-60:20) specifically in response (ANSM 19:4-16). Respondent does NOT meet the merits. Petitioner ACCEPTS RESPONDENTS ADOPTIVE ADMISSION that no "instrument" relevant to statute (Cal Pen § 115) exists. Nor could litigation pleadings or complaint be "recorded". The court has no ability to convict on said charge.

28. Petitioner ASSERTS any alleged admission of a "prior" mis-characterized (ANSM 5:3-4; CTS vol.5 (aug) 284). Petitioner ASSERTS compulsory "plea-up" recorded - as noted in pleadings prior to such (FLHE1903610 at form FL-200/300; CTS1378) and to this court (5:19cv0289 [sought protection from officer involved in family drama]). Relevant ultimatum: "you want to see your children? —Take this". Peaceful contact order, no fines, dismiss all charges, add new charge with new date, let family court work out visits. The record does not support actual conviction (RTS 1724:12-16). Petitioner has NEVER threatened the life of his family or children, and NEVER laid a hand on either in anger or with intent to harm. Petitioner will seek merger of claim in separate filing due to said record being a course of conduct by state actors pursuing fraudulent convictions.

Pursuant 28 USC 1746 I, father of Marjorie Linette Ramirez, declare the above as true under penalty

/s/rmvanleeuwen/

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